

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN SENATE MAY 31, 2011

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SENATE BILL

No. 161

Introduced by Senator Huff
(Coauthor: Senator Rubio)
(Coauthor: Assembly Member Halderman)

February 2, 2011

An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as amended, Huff. Schools: emergency medical assistance: administration of epilepsy medication.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district to *participate in a program* to provide *nonmedical* school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with guidelines developed by the ~~State Department of Public Health in~~

~~consultation with the State Department of Education~~ *State Department of Education in consultation with the State Department of Public Health. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012.* The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed an emergency antiseizure medication by the pupil's health care provider, to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer the emergency antiseizure medication, as defined, in the event that the pupil suffers a seizure when a nurse is not available. The bill would require a school *district* that elects to train school employees to ~~distribute~~ *ensure that the school distributes* an electronic notice, as specified, to all staff regarding the request. The bill would authorize the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication pursuant to these provisions. The bill would make various legislative findings and declarations, and state the intent of the Legislature in enacting this measure. The bill would repeal these provisions on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) All individuals with exceptional needs have a right to
- 4 participate in a free appropriate public education, and that special
- 5 instruction and services for these individuals are needed in order
- 6 to ensure they have the right to an appropriate educational
- 7 opportunity to meet their unique needs in compliance with the
- 8 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
- 9 1400 et seq.).
- 10 (2) The safety and welfare of a pupil with epilepsy is
- 11 compromised without immediate access to an emergency
- 12 antiseizure medication and, therefore, clarification is needed to
- 13 ensure that nonmedical school staff, who have volunteered and
- 14 have been trained in its correct administration, may administer an
- 15 emergency antiseizure medication.

1 (3) As used in this section, “immediate access” means the time
2 period that the pupil’s health care provider states that an antiseizure
3 medication must be administered, provided that it is within the
4 timeframe that a licensed medical person or paramedic can
5 reasonably be expected to respond and be available.

6 (b) It is the intent of the Legislature that individuals with
7 exceptional needs and children with disabilities under the federal
8 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
9 et seq.), *the federal Individuals with Disabilities Education Act*
10 *(20 U.S.C. Sec. 1400 et seq.)*, and Section 504 of the federal
11 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) shall have a right
12 to an appropriate educational opportunity to meet their unique
13 needs, and that children suffering from seizures due to epilepsy
14 have the right to appropriate programs and services that are
15 designed to meet their unique needs. In order to meet that goal, it
16 is the intent of the Legislature ~~to authorize nurses to~~ *that licensed*
17 *health care professionals* train and supervise employees of school
18 districts and county offices of education to administer an
19 emergency antiseizure medication to children with epilepsy in the
20 public schools. The American Academy of Pediatrics and the
21 Epilepsy Foundation of America support training of school
22 employees to administer an emergency antiseizure medication and
23 believe that an emergency antiseizure medication may be safely
24 and effectively administered by trained school employees. The
25 Legislature further finds and declares that, in the absence of a
26 credentialed school nurse or other licensed nurse onsite at the
27 school, it is in the best interest of the health and safety of children
28 to allow trained school employees to administer an emergency
29 antiseizure medication to pupils in public schools.

30 SEC. 2. Section 49414.7 is added to the Education Code, to
31 read:

32 49414.7. (a) It is the intent of the Legislature that, whenever
33 possible, an emergency antiseizure medication should be
34 administered by a school nurse or licensed vocational nurse who
35 has been trained in its administration.

36 (b) Notwithstanding Sections 2052 and 2732 of the Business
37 and Professions Code, in the absence of a credentialed school nurse
38 or other licensed nurse onsite at the school, a school district may
39 *elect to participate in a program, pursuant to this section, to allow*
40 *nonmedical employees to volunteer to provide medical assistance*

1 *to pupils with epilepsy suffering from seizures, upon request by a*
2 *parent or guardian pursuant to subdivision (c). If the school district*
3 *elects to participate in a program pursuant to this section, the*
4 *school district shall provide school employees, who volunteer*
5 *pursuant to this section, with voluntary emergency medical*
6 *training, that is consistent with the training guidelines established*
7 *pursuant to subdivision (m), to provide emergency medical*
8 *assistance to pupils with epilepsy suffering from seizures. A school*
9 *employee with voluntary emergency medical training shall provide*
10 *this emergency medical assistance using a training plan approved*
11 *on the department's Internet Web site pursuant to subdivision (m),*
12 *and the performance instructions set forth by the licensed health*
13 *care provider of the pupil. A school employee who does not*
14 *volunteer or who has not been trained pursuant to subdivision (m)*
15 *shall not be required to provide emergency medical assistance*
16 *pursuant to this section.*

17 (c) If a pupil with epilepsy has been prescribed an emergency
18 antiseizure medication by his or her health care provider, the
19 pupil's parent or guardian may request the pupil's school to have
20 one or more of its employees receive training pursuant to this
21 section in the administration of an emergency antiseizure
22 medication in the event that the pupil suffers a seizure when a
23 nurse is not available.

24 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
25 1973, as amended, (29 U.S.C. Sec. 794), *and the federal*
26 *Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400*
27 *et seq.)*, upon receipt of the parent's or guardian's request pursuant
28 to subdivision (c), the school shall notify the parent or guardian
29 that his or her child may qualify for services or accommodations
30 under the Section 504 plan *or an individualized education program*,
31 assist the parent or guardian with the exploration of that option,
32 and encourage the parent or guardian to adopt that option if it is
33 determined that the child is eligible for a Section 504 plan *or an*
34 *individualized education program*.

35 (e) The school may ask the parent or guardian to sign a notice
36 verifying that the parent or guardian was given information about
37 Section 504 of the federal Rehabilitation Act of 1973 *and the*
38 *federal Individuals with Disabilities Education Act (20 U.S.C. Sec.*
39 *1400 et seq.)*, and that the parent or guardian understands that it

1 is his or her right to request a Section 504 plan *or an individualized*
2 *education program* at any time.

3 (f) If the parent or guardian does not choose to have the pupil
4 assessed for a Section 504 plan *or an individualized education*
5 *program*, the school may create an individualized health plan,
6 seizure action plan, or other appropriate health plan designed to
7 acknowledge and prepare for the child's health care needs in
8 school. The plan may include the involvement of trained volunteer
9 school employees or a licensed vocational nurse.

10 (g) ~~If a school elects to train~~ *In training* employees pursuant to
11 this section, the school *district* shall ensure the following:

12 (1) A volunteer receives training from a licensed health care
13 professional regarding the administration of an emergency
14 antiseizure medication. A staff member who has completed training
15 shall, if he or she has not administered an emergency antiseizure
16 medication within the prior two years and there is a pupil enrolled
17 in the school who may need the administration of an antiseizure
18 medication, attend a new training program to retain the ability to
19 administer an emergency antiseizure medication.

20 (2) Any agreement by an employee to administer an emergency
21 antiseizure medication is voluntary, and an employee of the school
22 or school district shall not directly or indirectly use or attempt to
23 use his or her authority or influence for the purpose of intimidating,
24 threatening, coercing, or attempting to intimidate, threaten, or
25 coerce any staff member who does not choose to volunteer,
26 including, but not limited to, direct contact with the employee.

27 (3) Any employee who volunteers pursuant to this section may
28 rescind his or her offer to administer an emergency antiseizure
29 medication up to three days after the completion of the training.
30 After that time, a volunteer may rescind his or her offer to
31 administer an emergency antiseizure medication with a two-week
32 notice, or until a new individual health plan or Section 504 plan
33 has been developed for an affected pupil, whichever is less.

34 (4) The school shall distribute an electronic notice *no more than*
35 *twice per school year per child* to all staff that states the following
36 information in bold print:

37 (A) A description of the volunteer request, stating that the
38 request is for volunteers to administer an emergency antiseizure
39 medication to a pupil experiencing a severe epileptic seizure, in
40 the absence of a school nurse, and that this emergency antiseizure

1 medication is an FDA-approved, predosed, rectally administered
2 gel that reduces the severity of epileptic seizures.

3 (B) A description of the training that the volunteer will receive
4 pursuant to paragraph (1).

5 (C) A description of the voluntary nature of the volunteer
6 program, which includes the information described in paragraph
7 (2).

8 (D) The volunteer rescission timelines described in paragraph
9 (3).

10 (5) The electronic notice described in paragraph (4) shall be the
11 only means by which a school solicits volunteers.

12 (h) An employee who volunteers pursuant to this section shall
13 not be required to administer an emergency antiseizure medication
14 until completion of the training program adopted by the school
15 *district* and documentation of completion is recorded in his or her
16 personnel file.

17 (i) If a school *district* elects to participate pursuant to this
18 section, the school *district* shall ensure that each ~~volunteer~~
19 *employee who volunteers under this section* will be provided
20 defense and indemnification by the school, ~~in accordance with~~
21 *district for any and all civil liability, in accordance with, but not*
22 *limited to, that provided in Division 3.6 (commencing with Section*
23 *810) of Title 1 of the Government Code.* This information shall
24 be reduced to writing, provided to the volunteer, and retained in
25 the volunteer's personnel file.

26 (j) If there are no volunteers, then the school shall renotify the
27 pupil's parent or guardian of the option to be assessed for services
28 and accommodations guaranteed under Section 504 of the federal
29 Rehabilitation Act of 1973 *and the federal Individuals with*
30 *Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).*

31 (k) A school *district* that elects to participate pursuant to this
32 section shall have in place a school *district* plan that shall include,
33 but not be limited to, all of the following:

34 (1) Identification of existing licensed staff within the district or
35 region who could be trained in the administration of an emergency
36 antiseizure medication and could be available to respond to an
37 emergency need to administer an emergency antiseizure
38 medication. The school ~~shall consult with the school district or~~
39 *district shall consult with the county office of education* to obtain
40 this information.

1 (2) Identification of pupils who may require the administration
2 of an emergency antiseizure medication.

3 (3) Written authorization from the parent or guardian for a
4 nonmedical school employee to administer an emergency
5 antiseizure medication.

6 (4) The requirement that the parent or guardian notify the school
7 if the pupil has had an emergency antiseizure medication
8 administered within the past four hours on a schoolday.

9 (5) Notification of the parent or guardian, *by the school*
10 *administrator or, if the administrator is not available, by another*
11 *school staff member*, that an emergency antiseizure medication
12 has been administered.

13 (6) A written statement from the pupil's health care practitioner
14 that shall include, but not be limited to, all of the following:

15 (A) The pupil's name.

16 (B) The name and purpose of the medication.

17 (C) The prescribed dosage.

18 (D) Detailed seizure symptoms, including frequency, type, or
19 length of seizures that identify when the administration of an
20 emergency antiseizure medication becomes necessary.

21 (E) The method of administration.

22 (F) The frequency with which the medication may be
23 administered.

24 (G) The circumstances under which the medication may be
25 administered.

26 (H) Any potential adverse responses by the pupil and
27 recommended mitigation actions, including when to call emergency
28 services.

29 (I) A protocol for observing the pupil after a seizure, including,
30 but not limited to, whether the pupil should rest in the school office,
31 whether the pupil may return to class, and the length of time the
32 pupil should be under direct observation.

33 (J) Following a seizure, the pupil's parent and guardian and the
34 school nurse shall be contacted *by the school administrator or, if*
35 *the administrator is not available, by another school staff member*
36 to continue the observation plan as established in subparagraph
37 (I).

38 (l) A school *district* that elects to allow volunteers to administer
39 an emergency antiseizure medication shall compensate a volunteer,
40 *in accordance with that employee volunteer's pay scale pursuant*

1 to Section 45128, when the administration of an emergency
2 antiseizure medication and subsequent monitoring of a pupil
3 requires a volunteer to work beyond his or her normally scheduled
4 hours.

5 (m) (1) ~~The State Department of Public Health, in consultation~~
6 ~~with the department~~ *department, in consultation with the State*
7 *Department of Public Health*, shall develop guidelines for the
8 training and supervision of school employees in providing
9 emergency medical assistance to pupils with epilepsy suffering
10 from seizures *and shall post this information on the department's*
11 *Internet Web site by July 1, 2012.* The guidelines may be developed
12 in cooperation with interested organizations. Upon development
13 of the guidelines, the department shall approve the guidelines for
14 distribution and shall make those guidelines available upon request.

15 (2) The department shall include, on its Internet Web site, a
16 clearinghouse for best practices in training nonmedical personnel
17 to administer an emergency antiseizure medication to pupils.

18 (3) Training established pursuant to this subdivision shall
19 include, but not be limited to, all of the following:

20 (A) Recognition and treatment of different types of seizures.

21 (B) Administration of an emergency antiseizure medication.

22 (C) Basic emergency followup procedures, including, but not
23 limited to, ~~calling a requirement for the school administrator or,~~
24 ~~if the administrator is not available, another school staff member~~
25 ~~to call the emergency 911 telephone number and contacting the~~
26 ~~pupil's parent or guardian.~~ *to contact the pupil's parent or*
27 *guardian. The requirement for the school administrator or other*
28 *school staff member to call the emergency 911 telephone number*
29 *shall not require a pupil to be transported to an emergency room.*

30 (D) Techniques and procedures to ensure pupil privacy.

31 (4) Any written materials used in the training shall be retained
32 by the school.

33 (5) Training established pursuant to this subdivision shall be
34 conducted by one or more of the following:

35 (A) A physician and surgeon.

36 (B) A physician assistant.

37 (C) A credentialed school nurse.

38 (D) A registered nurse.

39 (E) A certificated public health nurse.

1 (6) Training provided in accordance with the manufacturer's
2 instructions, the pupil's health care provider's instructions, and
3 guidelines established pursuant to this section shall be deemed
4 adequate training for purposes of this section.

5 (n) (1) ~~A school employee~~ *The school administrator or, if the*
6 *administrator is not available, another school staff member* shall
7 notify the credentialed school nurse assigned to the school district
8 ~~if he or she~~ *an employee at the schoolsite* administers an emergency
9 antiseizure medication pursuant to this section.

10 (2) If a credentialed school nurse is not assigned to the school
11 district, ~~the school employee~~ *administrator or, if the administrator*
12 *is not available, another school staff member* shall notify the
13 superintendent of the school district, or his or her designee, ~~if he~~
14 ~~or she~~ *an employee at the schoolsite* administers an emergency
15 antiseizure medication pursuant to this section.

16 (3) A school shall retain all records relating to the administration
17 of an emergency antiseizure medication while a pupil is under the
18 supervision of school staff.

19 (o) The pupil's parent or guardian shall provide all materials
20 necessary to administer an emergency antiseizure medication,
21 including the information described in paragraph (6) of subdivision
22 (k). A school shall not be responsible for providing any of the
23 necessary materials.

24 (p) For purposes of this section, the following definitions apply:

25 (1) An "emergency antiseizure medication" means diazepam
26 rectal gel and emergency medications approved by the federal
27 Food and Drug Administration for patients with epilepsy for the
28 management of seizures by persons without the medical credentials
29 listed in paragraph (5) of subdivision (m).

30 (2) "Emergency medical assistance" means the administration
31 of an emergency antiseizure medication to a pupil suffering from
32 an epileptic seizure.

33 (q) This section shall remain in effect only until January 1, 2017,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2017, deletes or extends that date.